

PROPOSED DECISION RECORD/FINDING OF NO SIGNIFICANT IMPACT
for
GAP RESERVOIR
ENVIRONMENTAL ASSESSMENT
OR-027-01-20

INTRODUCTION: Following a 30-day comment period on the Finding of No Significant Impact for the Gap Reservoir Environmental Assessment (EA) OR 027-01-20, the Burns District, Andrews Resource Area of the Bureau of Land Management (BLM) is issuing a proposed decision for implementation of the Gap Reservoir EA. The proposed decision is to implement the proposed action of the EA, with no modification. This action would be in conformance with the 1982 Andrews Management Framework Plan (MFP), the 1983 Andrews Grazing Management Program Final Environmental Impact Statement (EIS), and its Record of Decision. It is in conformance with the objectives stated in the August 12, 1997 Standards for Rangeland Health and Guidelines for Livestock Management for Public Lands Administered by the Bureau of Land Management in the States of Oregon and Washington. It is consistent with the 1991 Final Oregon Wilderness EIS, and the Endangered Species Act, Sections 2(c) and 7(a)2. This action is in compliance with Section 112 of the Steens Mountain Cooperative Management and Protection Act (Act) of 2000.

DECISION: Having considered a full range of alternatives and associated impacts as described in the Gap Reservoir EA, and in accordance with 43 CFR 4160.1, it is my proposed decision to implement the proposed action as follows:

Construct one reservoir in the unnamed ephemeral drainage located in the Lower Pasture of the Mud Creek Grazing Allotment west of and outside the Bridge Creek Wilderness Study Area (WSA) (W.M., T. 32 S., R. 32½ E., Section 3, NENW). The construction site is located in the Steens Mountain Cooperative Management and Protection Area and will be an earth fill dam 9.8 feet high, 12 feet across the top, and 126 feet long.

Construct one-quarter mile of 4-strand wire fence to close off the approach to a water gap on Bridge Creek by connecting two existing wire fences on top of the rim south of Bridge Creek (W.M., T. 31 S., R. 32½ E., Section 34, NWSW).

Remove two creek-spanning fences on Bridge Creek using manual labor and/or pack animals.

RATIONALE FOR DECISION: I have selected the proposed action because it:

- Protects rangeland resources, enhances wildlife habitat, and has a positive effect on water quality, fisheries, and riparian habitat in Bridge Creek.
- Improves the management of livestock grazing in the Mud Creek Allotment.
- Improves wilderness characteristics in the Bridge Creek WSA.

- Facilitates the enactment of the Act.
- Is responsive to meeting rangeland standards and guidelines. It improves watershed function in uplands and riparian/wetland areas, improves surface water quality, and improves habitat for native, T&E, and locally important species.
- Promotes and sustains healthy ecosystems.
- Is in conformance with Section 7(a)1 of the Endangered Species Act.
- Is in compliance with Federal laws that mandate the management of public land resources (Federal Land Policy and Management Act of 1976).
- Does not result in any undue or unnecessary environmental degradation.
- Has no adverse effect on water resources or riparian habitat.
- Provides for the safety of human health.
- Is in conformance with the August 21, 2000 Management Guidelines for Greater Sage-Grouse and Sagebrush-Steppe Ecosystems.
- Is in conformance with objectives and land use allocations in the 1982 Andrews MFP and the 1983 Andrews Grazing Management Program Final EIS.

Maintenance of the fence and reservoir will not be an ongoing Federal cost. These responsibilities will be assigned through a cooperative agreement to the grazing permittee in the allotment.

Coordination included local government, tribal entities, private landowners, and other State and Federal agencies.

Public involvement consisted of direct mailing to 10 individuals, organizations, tribes, and agencies and notification in the local newspaper. Five comments were received during the Finding of No Significant Impact/EA review period. Comments were positive and addressed in the EA or in this Proposed Decision Record.

I have also considered the following alternative to the proposed action:

1. No action - This alternative lacks mitigation of the negative effects of livestock concentrating in the existing water gap on Bridge Creek. Wilderness characteristics would not be improved. Riparian habitat and water quality would not be improved. No new water source would be developed in the uplands in the Lower Pasture of the Mud Creek Allotment. Livestock management would not be improved.

Determination

Based on the analysis of potential environmental impacts contained in the EA and all other available information, I have determined that the proposal and the alternative analyzed do not constitute a major Federal action that would adversely impact the quality of the human environment. Therefore, an EIS is unnecessary and will not be prepared. This determination is based on the following factors:

1. Beneficial, adverse, direct, indirect, and cumulative environmental impacts have been disclosed in the EA. Analysis indicated no significant impacts on society as a whole, the affected region, the affected interests or the locality. The physical and biological effects are limited to the Burns District, Andrews Resource Area and adjacent land.
2. Public health and safety would not be adversely impacted. There are no known or anticipated concerns with project waste or hazardous materials.
3. No adverse impacts would occur to regional or local air quality, prime or unique farmlands, known paleontological resources on public land within the area, areas with unique characteristics, ecologically critical areas or designated Areas of Critical Environmental Concern. There are no adverse impacts to flood plain, wetlands or riparian habitat in the allotment.
4. No highly controversial effects would occur to the environment.
5. No effects are known which are highly uncertain or involve unique or unknown risk. Sufficient information on risk is available based on information in the EA and other past actions of a similar nature.
6. This alternative does not set a precedent for other actions that may be implemented in the future to meet the goals and objectives of adopted Federal, State or local natural resource-related plans, policies or programs. It does not preclude consideration or adoption of various alternatives in the ongoing Southeastern Oregon RMP/EIS, which will supersede the Andrews MFP.
7. No cumulative impacts related to other actions having a significant adverse impact were identified or are anticipated.
8. Based on previous and ongoing cultural surveys, and through mitigation by avoidance, no adverse impacts to cultural resources were identified or anticipated. There are no known American Indian religious concerns or persons or groups who might be disproportionately and adversely affected as anticipated by the Environmental Justice Policy.

9. No adverse impacts to any threatened or endangered species or their habitat that was determined to be critical under the Endangered Species Act were identified. If, at a future time, there could be the potential for adverse impacts, treatments would be modified or mitigated not to have an adverse effect or new analysis would be conducted.
10. This alternative is in compliance with relevant Federal, State, and local laws, regulations, and requirements for the protection of the environment.

In accordance with 43 CFR 4160.2, the permittee or other interested public may protest those portions of the proposed decision described above under 43 CFR 4160.1 in writing to the Andrews Resource Area Field Manager within 15 days from receipt of this proposed decision at this address:

Bureau of Land Management
Burns District Office
28910 Hwy 20 W
Hines, Oregon 97738

Any protest should specify the reasons clearly and concisely why the proposed decision is in error.

In the absence of a protest within 15 days from receipt of this proposed decision, this proposed decision shall constitute the final grazing management decision, without further notice in accordance with 43 CFR 4160.3(a). Should this proposed decision become the final grazing management decision and you wish to appeal this decision for the purpose of a hearing before an Administrative Law Judge, in accordance with 43 CFR 4.470(a) and 43 CFR 4160.4, your appeal must be filed within 45 days after receipt of the proposed decision, as provided for in 43 CFR 4160.3(a) and described above, in writing, at the office of the Field Manager, at the above address. A notice of appeal filed before the proposed decision becomes final will be treated as a protest. An appeal should specify the reasons, clearly and concisely, as to why you consider this grazing management decision to be in error.

If you wish to file a petition, pursuant to regulation 43 CFR 4.21, for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. A petition for stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied.
2. The likelihood of the appellant's success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether or not the public interest favors granting the stay.

Signature on File

Miles R. Brown
Andrews Resource Area Field Manager

7/18/2002

Date